

Cablefax Daily™


Thursday — January 22, 2015

What the Industry Reads First

Volume 26 / No. 013

Sapan to Speak: ALJ Orders Deposition in GSN-Cablevision Complaint

GSN and Cablevision's long-pending program carriage dispute continues to wind its way through the FCC, with an administrative law judge ruling this month in favor of GSN's request for a deposition of AMC Networks CEO *Josh Sapan*. Cablevision had objected, saying there was nothing new to say and that GSN already has ample evidence on the topics at hand. This all dates back to GSN's Oct 2011 complaint after Cablevision moved it to its Sports & Entertainment tier. The net argued it should be offered in a similar fashion to Rainbow Media's **WE tv** and the now defunct **Wedding Central**. AMCN, then Rainbow Media, was a division of Cablevision at that time. One reason the complaint has taken so long is that it was paused while the DC Circuit considered **Comcast's** challenge of an FCC decision that the MSO had discriminated against **Tennis Channel**. The court overturned the FCC order against Comcast in 2013, but the GSN-CVC case paused again as the parties waited for the appeals to run their course. Now, with that process seemingly exhausted (more on that below), GSN's complaint is moving through the ALJ system again. Or it was until the argument over Sapan's deposition. Cablevision said a deposition of the CEO has nothing to do with the limited supplemental discovery the presiding judge in the Comcast-Tennis Channel complaint approved at the DC Circuit. "There is no evidence that Mr. Sapan played any role in Cablevision's business analysis in 2010 of whether to re-tier GSN. Moreover, Mr. Sapan is an 'apex' witness with no unique knowledge of the facts underlying this dispute—facts GSN has explored at length," Cablevision argued. The ALJ was persuaded by GSN's argument that Sapan had 1st-hand knowledge of Cablevision's programming and distribution decisions and costs and that this knowledge informs the tests formulated by the DC Circuit for proving unlawful discrimination on the basis of affiliation. "To block discovery of the potentially relevant testimony of Mr Sapan before learning the level of knowledge he holds would be unfair to GSN and would risk the creation of an incomplete record," the ALJ wrote in a Jan 5 order that was posted on the FCC website Wed. **Tennis-Comcast:** After the US Supreme Court declined to hear Tennis Channel's appeal of the DC Circuit decision that found Comcast didn't discriminate against it by relegating the channel to a sports tier, Tennis petitioned the FCC to initiate further proceedings to reaffirm its original decision that Comcast is illegally discriminating against it. There is an order circulating at the FCC now on that request. Docket watchers don't expect the FCC to take



American Cable Association's
22nd
SUMMIT

Solving the Puzzle!
www.ACASummit.org

Washington, D.C. | March 3-5, 2015



A NEW CABLE CHANNEL

**MÁS DEPORTES,
SERIES, ACCIÓN**

COMING FEB 1, 2015

NBCUNIVERSO.COM A Division of **NBCUniversal**

CABLEFAX DAILY (ISSN 1069-6644) is published daily by Access Intelligence, LLC ● www.cablefax.com ● 301.354.2101 ● Editor-in-Chief: Amy Maclean, 301.354.1760, amaclean@accessintel.com ● Associate Publisher: Michael Grebb, 323.380.6263, mgrebb@accessintel.com ● Editor: Joyce Wang, 301.354.1828, jwang@accessintel.com ● Sr Community Editor: Kaylee Hultgren, 212.621.4200, khultgren@accessintel.com ● Advisor: Seth Arenstein ● Dir. of Business Dev.: Rich Hauptner, 203.899.8460, rhauptner@accessintel.com ● Jr. Acct. Exec: Olivia Murray, 301.354.2010, omurray@accessintel.com ● Dir. of Market Dev.: Laurie Hofmann, 301.354.1796, lhofmann@accessintel.com ● Production: Joann Fato, jfato@accessintel.com ● Diane Schwartz, SVP Media Comms Group, dschwartz@accessintel.com ● Group Subs: Laurie Hofmann, 301.354.1796, lhofmann@accessintel.com ● Sub Questions, Client Services: 301.354.2101, clientservices@accessintel.com ● Annual subscription price: \$1,649/year ● Access Intelligence, LLC, 4 Choke Cherry Road, 2nd Floor, Rockville, MD 20850

up the issue.

Net Neutrality Showdown: Not surprisingly, Republicans and Democrats on the Hill Wed had different views on a GOP-backed net neutrality draft bill. While the bill is a “step forward by my colleagues... [it] falls far short—and does a lot more harm than good,” said Rep *Mike Doyle* (D-PA). He and other Dems complained the draft weakens the FCC’s ability to address serious issues and creates a loophole for “specialized services,” which are loosely defined, allowing ISPs to give themselves prioritized service. Amazon vp, global public policy *Paul Misener* praised the principles in the draft, but outlined his company’s concerns with the bill, including the specialized services issue. **House Communications** subcmte chmn *Greg Walden* (R-OR) said the he thought all of the issues could be addressed, if they hadn’t already been. Walden and other Republicans repeatedly said the bill was addressing the same open Internet principles the FCC wanted to address—no blocking, discrimination or paid prioritization. **NCTA** pres/CEO *Michael Powell* and **CTIA** head *Meredith Attwell Baker* were on hand to warn about the dangers of Title II. Rep *Anna Eshoo* (D-CA) took umbrage at the idea that Title II would stop investment, saying there is no evidence supporting that. Powell’s response: Of course, investment will continue, but the question is whether it will be at a diminished rate. On the issue of specialized services, Powell explained that because broadband providers built their networks with their own private money, the FCC has recognized that a portion of that network is theirs to use for specialized services. He added that if an ISP was to get out of hand and try to use that in an anticompetitive manner, the FCC has authority to step in. Several of the House witnesses, including Misener and **MMTC’s** Dr *Nicol Turner-Lee*, also had to testify later in the day at a **Senate Commerce** hearing on the bill.

SOTU Speech: Having addressed broadband issues on several occasions before his State of the Union speech Tues, *President Obama* didn’t spend too much time on broadband. That said, net neutrality made the cut. “I intend to protect a free and open Internet, extend its reach to every classroom, and every community, and help folks build the fastest networks...so that the next generation of digital innovators and entrepreneurs have the platform to keep reshaping our world,” the president said. Cybersecurity also got a few mentions. “We are making sure our government integrates intelligence to combat cyber threats, just as we have done to combat terrorism. And tonight, I urge this Congress to finally pass the legislation we need to better meet the evolving threat of cyber-attacks, combat identity theft, and protect our children’s information... If we don’t act, we’ll leave our nation and our economy vulnerable. If we do, we can continue to protect the technologies that have unleashed untold opportunities for people around the globe.” **SOTU Ratings:** **Fox News** won the night among cable nets for SOTU (9-10:15pm ET), garnering 3.5mln viewers, according to preliminary **Nielsen** numbers. **CNN** was 2nd in total viewers (2.6mln), but in 1st place for the so-called news demo of 25-54s (1mln vs Fox News’ 834K). **MSNBC** averaged 2mln total viewers and 473K 25-54s.

Fox vs DISH: Both **DISH** and **Fox** declared victory following a CA federal court’s ruling regarding DISH’s Hopper and AutoHop service. While the court ruled that DISH’s ad skipping AutoHop didn’t infringe copyright, it sided with Fox in concluding that services like Hopper Transfers, which enables users to download shows on mobile devices, violated contract agreements. It also ruled that aspects of DISH Anywhere, which uses **Sling** technology to allow subs to view live programming remotely, infringed Fox’s copyrights. “While we are still disappointed the court felt that PrimeTime Anytime and AutoHop do not violate our copyrights or contract, DISH has been largely disabling AutoHop anyway...Fox believes strongly in innovation and will work closely with distribution partners that respect our copyrights and comply with agreed-upon contract terms,” Fox said in a statement. DISH said it is pleased that the court has “again sided with consumers by issuing a summary judgment decision upholding their rights under US copyright law to use Slingbox technology and the AutoHop, PrimeTime Anytime and Transfers features of the Hopper Whole-Home HD DVR,” *Stanton Dodge*, evp and general counsel, said in a statement.

ACA Tackles Pole Attachment: **ACA** worried that indie cable ops might pay higher pole attachment fees if the **FCC** reclassifies broadband under Title II. “Even though cable broadband providers reclassified as telecommunications service providers won’t lose pole attachment rights, pole owners can prevent them from obtaining the FCC’s lower cable rate formula for the payment of pole attachment fees. In this instance, reclassified cable broadband providers will have to pay the higher telecommunications provider rate, which will inevitably put upward pressure on retail broadband rates and create network investment disincentives,” **ACA** said in an ex parte filing. It asked the agency to ensure that “rates for access to poles, ducts, and conduits do not increase for these providers, especially small and medium-sized firms that will be

BUSINESS & FINANCE

disproportionally harmed.”

On the Circuit: WICT’s NY Chapter is the WICT 2014 Chapter of the Year. The association also recognized the Chapter President of the Year, WICT Southeast’s *Kathy Gray*, and the Chapter Adviser of the Year, for the 2nd year in a row, *Jill Meinzer*, vp, technical services, **Arris**. The group acknowledged the following chapters for their performance last year: DC/Baltimore (most improved chapter), NY (best chapter programming and community service award) and Carolinas (chapter mentoring excellence).

Starz Partners with DTS: Starz tapped HD audio service provider **DTS** to enable multichannel surround sound for Starz Play, Encore Play, and MoviePlex Play services on Microsoft’s Xbox One platform.

Programming: Disney XD booked “Gamer’s Guide to Pretty Much Everything,” a new live-action comedy series. Centering on a teenage professional video game player, the series will debut in the summer.

People: *Mike LaJoie*, former **Time Warner Cable** CTO, joined data analytics service provider **Guavus’** board and will serve as chmn of the board. -- **Cablevisoin** upped *Bret Richter* to evp, corporate finance & development, and tapped *Cindi Buckwalter* as svp, investor relations. Both will continue to report to vice chmn and CFO *Greg Seibert*.

Cablefax Daily Stockwatch

Company	01/21 Close	1-Day Ch	Company	01/21 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
DIRECTV:	85.50	(0.08)	CONVERGYS:	19.39	(0.24)
DISH:	71.88	1.20	CSG SYSTEMS:	24.70	(0.69)
ENTRAVISION:	6.44	0.10	ECHOSTAR:	51.58	0.38
GRAY TELEVISION:	10.28	0.23	GOOGLE:	518.04	11.14
MEDIA GENERAL:	14.61	0.38	HARMONIC:	6.81	(0.01)
NEXSTAR:	49.86	1.31	INTEL:	36.48	0.39
SINCLAIR:	25.50	0.36	INTERACTIVE CORP:	61.82	(0.47)
MSOS					
CABLEVISION:	19.74	0.38	JDSU:	13.22	UNCH
CHARTER:	155.75	(0.38)	LEVEL 3:	49.52	1.19
COMCAST:	55.77	(0.04)	MICROSOFT:	45.92	(0.47)
COMCAST SPCL:	55.51	0.10	NETFLIX:	409.28	60.48
GCI:	15.37	(0.08)	NIELSEN:	43.86	0.55
GRAHAM HOLDING:	884.68	1.51	RENTRAK:	71.55	(0.08)
LIBERTY BROADBAND:	47.13	(0.34)	SEACHANGE:	7.08	(0.17)
LIBERTY GLOBAL:	46.80	0.24	SONY:	21.91	1.09
SHAW COMM:	23.95	(0.23)	SPRINT NEXTEL:	4.39	0.23
TIME WARNER CABLE:	143.33	(0.45)	TIVO:	10.73	0.15
PROGRAMMING					
21ST CENTURY FOX:	33.91	(0.2)	UNIVERSAL ELEC:	63.51	(0.18)
AMC NETWORKS:	64.44	1.42	VONAGE:	4.47	0.02
CBS:	56.19	0.72	YAHOO:	48.18	0.55
CROWN:	3.25	(0.05)	TELCOS		
DISCOVERY:	29.45	0.20	AT&T:	34.00	0.05
DISNEY:	94.17	(0.57)	CENTURYLINK:	38.63	(0.11)
GRUPO TELEVISIA:	32.89	0.64	TDS:	24.03	0.06
HSN:	72.44	(0.42)	VERIZON:	48.25	0.07
LIONSGATE:	28.25	0.16	MARKET INDICES		
MSG:	73.18	0.08	DOW:	17554.28	39.05
SCRIPPS INT:	71.68	(0.06)	NASDAQ:	4667.42	12.57
STARZ:	28.66	0.06	S&P 500:	2032.12	9.57
TIME WARNER:	80.73	0.38			
VIACOM:	67.76	0.99			
WWE:	10.13	0.08			
TECHNOLOGY					
ADVANTAGE:	2.37	0.00			
AMDOCS:	47.57	(0.19)			
AMPHENOL:	53.93	1.58			
AOL:	47.62	0.86			
APPLE:	109.55	0.83			
ARRIS GROUP:	28.08	0.22			
AVID TECH:	13.95	(0.31)			
BLNDER TONGUE:	1.87	(0.05)			
BROADCOM:	42.61	0.27			
CISCO:	27.84	(0.23)			
COMMSCOPE:	25.94	0.05			
CONCURRENT:	7.00	0.04			

CableJobs

Post your job openings on Cablefax’s Job Board today!

- Reach the most qualified candidates.
- Check out resumes for free, and only pay for the ones that interest you!
- Job posting packages allow you to post multiple jobs at your convenience at a discounted rate.

Cablefax has a recruitment product to fit your budget and business needs.

Visit us at www.cablefax.com/jobs



Think about that for a minute...

Déjà vu/ Next Generation

Commentary by Steve Effros

Funny the way things happen sometimes, you just get this feeling you've been there before. That's definitely the case with the just announced "CuriosityStream" programming which starts being offered on a subscription basis over broadband in March. The founder: John Hendricks. The folks now responsible for parts of the day to day activities: John's daughter and son. It really does feel like "back to the future."

The "back" part of this story, for those of you not familiar, is that John Hendricks had this great idea for really good television; nonfiction, documentary, educational material. He called it "The Discovery Channel" and it went "live" on cable systems, delivered via satellite, in June of 1985. The initial material came primarily from nature shows and the like done in Canada and Australia, and John manned a "tabletop" exhibit at the Western Show in late 1984 introducing this new channel to the industry. That's where I met him, saw what he was trying to do, and was mightily impressed.

So impressed, that in the January, 1985 CATA newsletter, I urged the industry to take a close look at it. I compared the yet-to-be-aired Discovery Channel to what I've always considered, and called, the "gem" of cable television; C-SPAN. Here's what I said; "...it looks very interesting, the type of programming, like C-SPAN, that the industry can be proud to deliver into subscriber's homes. This is the type of stuff that can sell those folks who haven't been sold on cable yet! Watch for it." Clearly, I called that one right. I suspect the Hendricks clan is about to do it again.

John also had an idea early-on about "Your Choice TV." A way to select the channels and programming you wanted on cable long before the era of SVOD. While



the multiple channels now offered by Discovery have moved pretty far away from that original non-fiction, documentary bent, the passion to offer that type of programming, and do it in a way where folks can select what they want to watch, has apparently never waned. CuriosityStream looks very much like the realization of those objectives.

Of course now it's designed for broadband streaming delivery, and they not only have fascinating product from networks around the world, but they are producing their own programming as well. And here's where the "next generation" stuff gets even more interesting for me. If you go on their web site (CuriosityStream.com) and click on any of the "A Curious World" preview clips you'll hear a voice that may sound somewhat familiar. It's my son, Jamie, doing the narration! He's a voice actor in New York, and I had nothing to do with his getting the work, but I have to say he makes the subject matter sound even more fascinating. Of course, that's a bit of a biased view, but take a listen. No more of the "deep droning" narrative voices. Instead, a new generation talking about history, science, astronomy and all sorts of other interesting stuff. Here's hoping he gets lots more to narrate. I think this one's a winner. The "new generation" is taking over in more ways than one, and as we all know, broadband streaming is definitely going to be a part of it. CuriosityStream has the same potential for broadband streaming that Discovery had for cable; it will give viewers new choices. It's an additive product and one that a select audience of viewers will find very valuable. As I

said last time; watch for it.

Steve

T:202-630-2099
steve@effros.com

(Steve Effros was President of CATA for 23 years and is now an advisor and consultant to the cable industry)

Who deserves to appear in Cablefax's annual power player list?

Nomination Deadline: January 30 | Free to Enter

100
Cablefax

The Cablefax 100 salutes the most influential cable executives whose leadership continues to take the industry to new heights. Nominate your colleagues, your boss or even yourself for a coveted spot in the Cablefax 100.

It's free to enter – but you must submit your nominations by January 30.

Enter at www.cablefax.com/awards

